



20 DEC 2005

Todd W. Wright
Morrison & Foerster
19900 Macarthur Blvd.
Irvine, CA 92612-2445

In re Application of
BLANK
Serial No.: 10/507,347
PCT No.: PCT/EP03/02708
Int. Filing Date: 14 March 2003
Priority Date: 14 March 2002
Atty Docket No.: 480052000600
For: METAL STRUCTURE COMPATIBLE WITH
MRI IMAGING, AND THE METHOD OF
MANUFACTURING SUCH A STRUCTURE

DECISION ON PETITION

UNDER 37 CFR 1.181

This is a decision on applicant's "Petition to Withdraw Holding of Abandonment - Notification of Missing Requirements Not Received" filed on 14 December 2005 in the United States Patent and Trademark Office (USPTO). No petition fee is due.

BACKGROUND

On 14 March 2003, applicant filed international application PCT/EP03/02708, which claimed priority of an earlier application filed 14 March 2002. The thirty-month period for paying the basic national fee in the United States was set to expire at midnight on 14 September 2004.

On 10 September 2004, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1); an English translation of the international application and a preliminary amendment.

On 22 March 2005, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide a signed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the international application number and international filing date. In addition, applicant was advised that an additional claim fee of \$50.00 was due. Applicant was afforded two months to file the proper response.

On 14 December 2005, applicant filed the present petition under 37 CFR 1.181.

DISCUSSION

The Official Gazette, at 1156 OG 53, provides that a petition requesting relief based on the grounds that an Office action was not received must be accompanied by a statement that (1) the Office action was not received, (2) attests that a search of the file jacket indicates the Office action was not received, (3) attests that a search of counsel's docket records indicates the Office action was not received and (4) the Petition must also be accompanied by copies of the docket records where the non-received Office action would have been entered. (See also, Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

Applicant's petition and accompanying papers filed 14 December 2005 satisfy the items above and it is proper to grant applicant's petition at this time showing that the "Notification of Missing Requirements" mailed 22 March 2005 was never received by applicant. The holding of abandonment in this application is withdrawn.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

CONCLUSION

Applicant's Petition Under 37 CFR 1.181 is GRANTED.

This application is being returned to the DO/EO/US for processing in accordance with this decision including the re-issuance of a new "Notification of Missing Requirements" (Form PCT/DO/EO/905).



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459